

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 90-413-C - ORDER NO. 90-816 ✓
SEPTEMBER 4, 1990

IN RE: Application of South Carolina) ORDER GRANTING
RSA No. 5 Cellular General) CERTIFICATE OF
Partnership for a Certificate of) PUBLIC CONVENIENCE
Public Convenience and Necessity) AND NECESSITY

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed on June 1, 1990, by South Carolina RSA No. 5 Cellular General Partnership (the Applicant) seeking a Certificate of Public Convenience and Necessity to operate and construct a cellular radio telecommunications system in the Georgetown Rural Statistical Area (RSA) No. 5 which is made up of the South Carolina Counties of Georgetown, Horry, and Marion, and for approval of its proposed rates and charges.

The Applicant is a partnership organized and existing in accordance with the Partnership Act of the State of South Carolina and having its principal place of business at P. O. Box 11390, Columbia, South Carolina 29211. The two partners are BellSouth Mobility, Inc., and Palmetto MobileNet, L.P., each holding a fifty percent share of the partnership. Palmetto MobileNet, L.P. is composed of nineteen local exchange companies based in South

Carolina; Bluffton Telephone Company; Chester Telephone Company; Chesterfield Telephone Company; Farmer's Telephone Cooperative; Fort Mill Telephone Company; Horry Telephone Cooperative; Lockhart Telephone Company; Palmetto Rural Telephone Cooperative, Inc.; Rock Hill Telephone Company; Hargray Telephone Company; Heath Springs Telephone Company; Lancaster Telephone Company; Piedmont Rural Telephone Cooperative, Inc.; Pond Branch Telephone Company; Ridgeway Telephone Company; Home Telephone Company; Norway Telephone Company; Sandhill Telephone Cooperative, Inc.; and West Carolina Telephone Company.

The application was filed under the provisions of S.C. Code Ann. Sections 58-9-10(6), 58-9-280, 58-11-10(f), and 58-11-100 (1976), as amended. The application was duly noticed to the public and no Petitions to Intervene or other protest were received by the Commission. On June 1, 1990, Applications were also filed seeking Certificates of Public Convenience and Necessity for RSA Nos. 4 and 6 as well. These three applications were then combined for hearing by the Commission's Order No. 90-759 and the dockets scheduled for hearing.

A public hearing relative to the matters asserted in the Application was held in the Hearing Room of the Commission at 111 Doctors Circle at 10:30 a.m., on Thursday, August 16, 1990, before Commissioners Butler, Fuller, and Yonce, with Commissioner Cecil A. Bowers presiding. M. John Bowen, Jr., Esquire, appeared on behalf of the Applicant and Marsha A. Ward, General Counsel, appeared on behalf of the Commission Staff.

The Applicant presented the testimonies of John M. Barnes,

President of Palmetto MobileNet, Inc., and Roy M. Etheridge, General Manager-New Markets, at BellSouth Mobility, Inc., to explain how the Applicant planned to finance and distribute cellular services to the RSA; the design, construction and operation of the proposed system; and the rates and service conditions proposed. Mr. Etheridge made a change to page 5 of the tariff as filed with the Commission and introduced that change as Hearing Exhibit 1. The Commission Staff introduced no witnesses.

Prior to the filing of the instant Application with the Commission, an Application for Authorization (FCC Form 401) of a cellular radio system was submitted to the Federal Communications Commission (FCC) by the Applicant, pursuant to 47 C.F.R. Part 22, requesting authorization to construct, test and operate a Domestic Public Cellular Radio telecommunications System in RSA No. 5. By its Order Number 85-391, the Commission has previously found that "the FCC has pre-empted authority over the issues of technical standards, market structure, and public need with respect to cellular communication services." Under this pre-emptive authority, the FCC has determined that there is a nationwide public need for cellular mobile radio telephone service in the United States due to frequency congestion in traditional forms of mobile telephone service, and that RSA No. 5 is one which exhibits a need for this new technology. Only two applicants, one wireline carrier and one non-wireline carrier, will be authorized to operate cellular mobile radio telephone systems and service in any one RSA. The FCC has named the Applicant herein the wireline selectee for RSA No. 5, pending grant of an FCC construction and operation

authorization.

According to witness Barnes, the Applicant also utilized its knowledge of the population in the RSA and the demographic characteristics of the area to establish the presence of a demand for cellular mobile radio telephone service in the RSA. The Applicant proposes to provide wholesale and retail distribution of cellular services through resellers, independent dealers, and possibly an internal sales force. It is fit, willing and able to provide the proposed service as evidenced by the technical expertise, financial support, experience, training and knowledge of the personnel who will be available to operate and advise regarding operation and management of the proposed facility. The Applicant will require approximately \$2.6 million to fund the construction and initial operation of the system, which funds will be obtained by way of capital calls from the member companies of the partnership.

According to witness Etheridge, the proposed system initially calls for the RSA to be served by 3 cells. As demand increases, the Applicant will be able to expand the system. Growth will be accomplished both by adding cells as well as by adding more voice channels to existing cells. Each cell will have a number of low-power transmitters and a number of receivers to service mobile or portable telephones within its boundaries. Adjacent cells are assigned different voice channel frequencies to avoid co-channel interference. A central switch will control all calls between the mobile or portable units and the public switched telephone network as necessary to complete the call. Both mobile and portable units

use direct dialing, and voice transmission is generally equivalent to that of conventional landline telephone. Mobile units that are within the cellular geographic service area (CGSA) will have the ability to place or receive a local call and to make or receive toll calls to and from any point in the world served by the public telephone network. A map of this area is attached to the Application filed herein.

Witness Etheridge also explained that the rates set out in the proposed tariff for the basic cellular telecommunications service consist of an access charge and a usage charge, set at a maximum level. These rates and charges, as set out in Hearing Exhibit 1, have been developed taking into account the cost of constructing and operating the RSA system, the potential risk of providing a highly discretionary service in a competitive market structure, and the need to attract sufficient demand to ensure that the system is economically viable. Service of this nature is being sold at other locations with similar rates. The monthly access charge ranges from \$38.00 to \$40.00 per access number per month depending upon the volume, and each minute of usage during peak periods ranges from \$.34 to \$.35 per minute depending upon usage. The Applicant will offer numbers to customers in blocks of 25 with an initial minimum requirement of 100 numbers. Quantity discounts for number and usage will be provided as an incentive to resellers to promote the use of the service. Optional features will also be available such as call forwarding, no-answer transfer, call waiting, and three-party conferencing at a recurring cost of \$3.00 per month per feature.

Consistent with the FCC's order in CC Docket No. 79-318, the Applicant will provide wholesale cellular service in a non-discriminatory fashion to those who wish to retail the service to the individual subscribers. The end using subscriber will buy cellular equipment and network access from these retailers. The Commission, by its Order No. 85-539, dated June 27, 1985, recognized that "retailers of the services offered by the Applicant do not fall within the purview of the statute and therefore are not subject to the jurisdiction of this Commission."

After consideration of the testimony of the witnesses presented herein, review of all documents filed in this matter and the applicable law, and consideration of the absence of intervention or other protest in this matter, the Commission finds and determines as follows:

1. That there exists a public need for cellular communication services to the Georgetown Rural Statistical Area, RSA No. 5, and that the public convenience and necessity requires the construction and operation of such services; and

2. That only two applicants, one wireline and one non-wireline, will be authorized to provide such services in each area; and

3. That South Carolina RSA No. 5 Cellular General Partnership is the tentative selectee of the FCC to provide wireline service to RSA No. 5, subject to receipt of the FCC permit for operation and construction; which permit shall be filed with the Commission within a reasonable time after its receipt by the Applicant; and

4. That retailers of the services offered by the Applicant do

not fall within the purview of the statute and therefore are not subject to the jurisdiction of the Commission; and

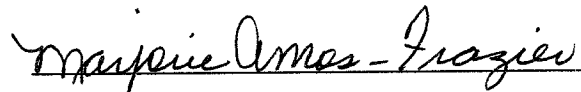
5. That the Applicant herein has shown itself to be fit, willing and able to provide such cellular communication services; and that therefore it should be and hereby is granted a Certificate of Public Convenience and Necessity to operate and construct a cellular radio telecommunication system in RSA No. 5.

6. That while the Commission is conscious of the need for cellular companies to adjust rates and charges timely to reflect the forces of economic competition, the Commission is not convinced that rate and tariff adjustments below the approved maximum levels should be accomplished without notice to the Commission and to the public. The Commission herein adopts a rate design for the Applicant which includes only a maximum rate level for each tariff charge. A rate structure incorporating a maximum rate level with the flexibility for downward adjustment has been previously adopted by this Commission. IN RE: Application of GTE Sprint Communications Corporation, etc. Order No. 84-662, issued in Docket No. 84-10-C on August 2, 1984. The maximum rates proposed to be charged by the Applicant were sponsored by witness Etheridge. The Applicant will incorporate provisions for filing of proposed rate changes and publication of notice of such changes two (2) weeks prior to the effective date of such changes, and affidavits of publications must be filed with the Commission. Furthermore, the Commission considers that any proposed increase in the maximum rate levels reflected in the tariffs of the Applicant, which should be applicable to the carrier's general body of subscribers, would

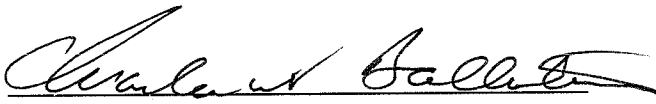
constitute a general rate making proceeding which would be treated in accordance with the notice and hearing provisions of Section 58-11-70 of the South Carolina Code Annotated (Law Co-op. 1976 and 1986 Cum. Supp.)

7. That the Applicant is hereby ordered to file tariffs to reflect the findings herein within thirty days of the date of this Order.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)